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CITY OF EL PASO, TEXAS  
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: Engineering Department **CITY CLERK DEPT.** **SEP 19 AM 10:28**

AGENDA DATE: September 27, 2005

CONTACT PERSON/PHONE: Rick Conner, ext. 4423

DISTRICT(S) AFFECTED: 6

**SUBJECT:**

That the City Manager be authorized to sign a Temporary Construction Easement for a 0.0775 acre, parcel of land being a portion of H.F. Fisher Survey 293, Abstract 38, Portion of Tract 34-A-5, El Paso, El Paso County, Texas, which easement is needed for the Rocky Bluff Drainage Improvement Project.

**BACKGROUND / DISCUSSION:**

The temporary construction easement is needed in order to allow the contractor to work on private property to complete the Rocky Bluff Drain Improvement project. The private property owner is granting permission to the City of El Paso to allow the contractor to perform the work.

**PRIOR COUNCIL ACTION:**

The City has not previously considered this item.

**AMOUNT AND SOURCE OF FUNDING:**

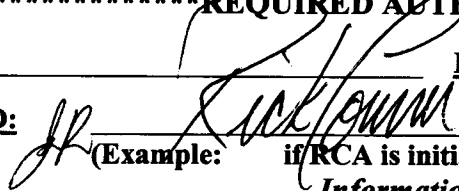
The City shall reimburse the Property owner \$10 (ten dollars) from Account #14200402-PBE04FC104-29114-508027.

**BOARD / COMMISSION ACTION:**

N/A

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**LEGAL:** (if required) \_\_\_\_\_ **FINANCE:** (if required) \_\_\_\_\_

**DEPARTMENT HEAD:**   
(Example: if RCA is initiated by Purchasing, client department should sign also)  
*Information copy to appropriate Deputy City Manager*

**APPROVED FOR AGENDA:**

**CITY MANAGER:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

## RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to sign a Temporary Construction Easement for a 0.0775 acre, parcel of land being a portion of H.F. Fisher Survey 293, Abstract 38, Portion of Tract 34-A-5, El Paso, El Paso County, Texas, which easement is needed for the Rocky Bluff Drainage Improvement Project.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2005.


CITY OF EL PASO:

ATTEST:

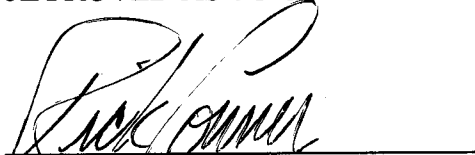
\_\_\_\_\_  
John F. Cook, Mayor

\_\_\_\_\_  
Richarda Duffy-Momsen  
City Clerk

APPROVED AS TO FORM:

  
Theresa Cullen-Garney  
Deputy City Attorney

APPROVED AS TO CONTENT:

  
Rick Conner, P.E.  
City Engineer

Document #: 8816

Document Name: 05-RESO-Rocky Bluff Temp Const Easement

Document Author: TCUL

STATE OF TEXAS           §  
                                  §       **TEMPORARY EASEMENT FOR CONSTRUCTION**  
COUNTY OF EL PASO     §

**KNOW ALL MEN BY THESE PRESENTS:**

That the Ralano Family Partners, Ltd., of the County of El Paso, State of Texas, hereinafter called "Grantor", for and in consideration of the sum of TEN AND 00/100TH DOLLARS (\$10.00) and other good and valuable consideration paid, receipt of which is hereby acknowledged, does hereby grant to the CITY OF EL PASO, TEXAS, hereinafter "Grantee", a Municipal Corporation of the City of El Paso, State of Texas, a Temporary Easement in, upon and across the following described real property, collectively the "Property", situated in El Paso County, Texas, to-wit:

Parcel No. 2--a 0.0775 acre, more or less, parcel of land being a portion of and H.F. Fisher Survey 293 Abstract 38 a portion of Tract 34-A-5, being more particularly described in Exhibit "B" attached hereto and incorporated herein for all purposes, and

together with the right of ingress and egress for all purposes incident to said grant, for the purpose of using and occupying such Property as additional workspace during construction of the Rocky Bluff Drainage Improvement Project. The permission to use the property for construction operation includes the right to move and remove equipment and supplies on the land and to perform any other work necessary and incident to the Project together with the right to trim, cut, fill and remove therefrom all trees, underbrush, obstructions and any other vegetation, structures or obstacles within the limits of the temporary construction easement; reserving, however, to the Grantor, its heirs and assigns, all such rights and privileges as may be used without interfering with or abridging the rights and easements hereby acquired, subject, however, to existing easements for public utilities. The Property shall not be used as a staging area. Upon completion of the Project, the surface of the temporary construction easement will be restored and cleaned to the condition it was prior to such entry to the full extent reasonably practicable. This grant of authority shall extend to all contracts let

by the City of El Paso or its construction contractor, personnel and other workers, sub contractors, and agents in furtherance of the objectives herein stated.

The easement and rights herein granted shall terminate on November 1, 2005, and Grantee shall furnish Grantor with an appropriate recordable instrument releasing the interest of Grantee and its assigns, if any, in the Temporary Easement herein granted.

Grantee shall have the right to assign all or any part its rights hereunder to third parties, provided, however, that Grantee shall remain fully liable for its obligations assumed hereunder and upon the completion of the Project, Grantee shall furnish Grantor with an appropriate instrument releasing the interest of any of Grantee's assignees in the Temporary Easement herein granted.

To the extent allowed by Texas State law, Grantee shall indemnify and hold Grantor harmless from and against any and all claims, demands, damages, suits, liabilities, costs and expenses including, but not limited to, attorney's fees, arising by reason of the death of or injury to persons or loss of or damage to Property caused by any exercise by Grantee or its assignee or assignees of any of the rights granted hereunder, during the period of construction of the Project.

IN WITNESS WHEREOF this instrument is executed on the 31 day of August, 2005.

Ralano Family Partners, Ltd.

By: Bearzo, L.C., General Partner

By: Louis M. Alpern, Manager

City of El Paso

\_\_\_\_\_  
City Manager

APPROVED AS TO FORM:

Theresa Cullen-Garney  
Theresa Cullen-Garney  
Deputy City Attorney

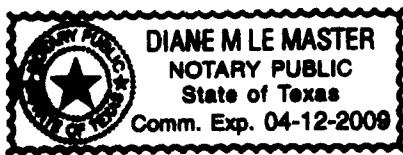
APPROVED AS TO CONTENT:

Rick Conner  
Rick Conner, P.E.  
City Engineer

ACKNOWLEDGMENTS

THE STATE OF TEXAS     )  
  )  
COUNTY OF EL PASO     )

This instrument is acknowledged before me on this 31<sup>st</sup> day of August, 2005, by Louis M. Alpern, Manager of Bearzo L.C., General Partner of Ralano Family Partners, Ltd., a Texas limited partnership, on behalf of said partnership.



Diane M. Le Master  
Notary Public, State of Texas

THE STATE OF TEXAS     )  
  )  
COUNTY OF EL PASO     )

This instrument is acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2005, by \_\_\_\_\_, as City Manager of the City of El Paso.

\_\_\_\_\_  
Notary Public, State of Texas

## **EXHIBIT B**

### **H.F. FISHER SURVEY 293 ABSTRACT 38 A PORTION OF TRACT 34-A-5 TEMPORARY CONSTRUCTION EASEMENT**

Legal description of a parcel of land being a portion of the H.F. Fisher Survey 293 abstract 38A portion of tract 34-A-5 and being more particularly described as follows;

Commencing at a city monument, lying on the center line of Rocky Bluff Drive at the cul-de-sac,

Thence South  $83^{\circ} 00' 56''$  East a distance of 38.58 feet,

Thence South  $54^{\circ} 47' 52''$  East a distance of 175.06 feet, to a point, said point being "the true point of beginning" (POB),

Thence South  $00^{\circ} 39' 33''$  East a distance of 156.60 feet,

Thence South  $59^{\circ} 30' 33''$  East a distance of 23.37 feet,

Thence North  $00^{\circ} 39' 33''$  West a distance 178.91 feet,

Thence North  $54^{\circ} 47' 52''$  West a distance of 2.22 feet,

Thence South  $57^{\circ} 00' 00''$  West a distance of 21.53 feet to a point, said point being "the true point of beginning" (POB) of the temporary easement,

Said parcel of land contains approximately 3377.40 square feet or .0775 acres of land, more or less.

(Reference: Richmar Unit 4 subdivision plat, Richmar Unit 7 subdivision plat, H.F. Fisher 293 Survey plans on file at the City of El Paso Engineering Department)

